

**UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA**

HANNAH SABATA, et al.,

Plaintiffs,

v.

**NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES, et al.,**

Defendants.

Case No. 4:17-cv-03107-RFR-MDN

CLASS ACTION

**PLAINTIFFS' MOTION FOR
PERMISSION TO RESTRICT**

Plaintiffs move for leave to restrict access to seven documents attached to their Index of Evidence in Support of Plaintiffs' Motion for Class Certification, on the ground that these documents contain protected health information of a named Plaintiff and of members of the plaintiff class that should not be public in the interest of privacy.

Plaintiffs move for leave to restrict access to three exhibits containing protected health information of Plaintiff Hannah Sabata:

- Exhibit A to the Declaration of Hannah Sabata (Filing No. 249-16);
- Exhibit B to the Declaration of Hannah Sabata (Filing No. 249-17); and
- Exhibit C to the Declaration of Hannah Sabata (Filing No. 249-18).

These exhibits each contain protected medical and mental health information of Plaintiff Hannah Sabata that should not be public because the information is highly sensitive and private. Filing redacted documents would not reduce or eliminate the need for restricted access because the protected health information permeates these exhibits and because it is necessary for the Court and Defendants' counsel to see the entire contents of Filing Nos. 249-16, 249-17 and 249-18) in addressing Plaintiffs' Motion for Class Certification.

Plaintiffs also move for leave to restrict access to four exhibits to the declarations of four of Plaintiffs' expert witnesses:

- Exhibit 3 to the Declaration of Pablo Stewart (Filing No. 249-41);
- Exhibit 4 to the Declaration of Craig Haney (Filing No. 249-46);
- Exhibit 4 to the Declaration of Jay Shulman (Filing No. 249-57); and
- Exhibit 3 to the Declaration of Marc Stern (Filing No. 249-61).

In their declarations in support of class certification, Plaintiffs' expert witnesses Pablo Stewart, Craig Haney, Jay Shulman and Marc Stern each discuss the protected health information of class members who are not named Plaintiffs, but do not identify the class members by name in order to protect their privacy (instead referring to them as, for example, "Prisoner A" or "Patient 2"). The four exhibits Plaintiffs seek to file as restricted access documents are "Patient File Keys" that identify the class members discussed by these four experts in their declarations by their names and inmate numbers so that the Court and Defendants' counsel will know their identities.

Plaintiffs thus move for leave to restrict access to the "Patient File Keys" that identify the class members—Filing Nos. 249-41, 249-46, 249-57 and 249-61—thereby protecting both the public's interest in viewing Plaintiffs' experts' declarations and the protected health information of the class members, by limiting access to the exhibits that identify them to the Court and counsel for Defendants.

WHEREFORE, Plaintiffs' respectfully request that the Court restrict access to the following documents attached their Index of Evidence in Support of Plaintiffs' Motion for Class Certification:

- Exhibit A to the Declaration of Hannah Sabata (Filing No. 249-16);
- Exhibit B to the Declaration of Hannah Sabata (Filing No. 249-17);
- Exhibit C to the Declaration of Hannah Sabata (Filing No. 249-18);
- Exhibit 3 to the Declaration of Pablo Stewart (Filing No. 249-41);

- Exhibit 4 to the Declaration of Craig Haney (Filing No. 249-46);
- Exhibit 4 to the Declaration of Jay Shulman (Filing No. 249-57); and
- Exhibit 3 to the Declaration of Marc Stern (Filing No. 249-61).

Submitted February 19, 2019

**ACLU NATIONAL PRISON PROJECT
ACLU OF NEBRASKA
DLA PIPER LLP (US)
NATIONAL ASSOCIATION OF THE DEAF
NEBRASKA APPLESEED
ROSEN BIEN GALVAN & GRUNFELD LLP**

By: /s/ Kara J. Janssen

Kara J. Janssen (Cal Bar. No. 274762)

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CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2019, I electronically filed the foregoing document with the Clerk of the United States District Court for the District of Nebraska, causing notice of such filing to be served upon all parties registered on the CM/ECF system.

By: /s/ Kara Janssen